

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN WISE,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendant.

Case No. C05-5810 FDB/KLS

ORDER DENYING PLAINTIFF'S
MOTION TO STAY DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT

This civil rights case has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Before the Court is Plaintiff's motion to stay Defendants' motion for summary judgment and in opposition to Defendants' motion for summary judgment. (Dkt. # 52).

DISCUSSION

Rule 56(f) permits continuance of a motion for summary judgment only where the moving party shows by affidavit that the party cannot present facts essential to justify the party's opposition and states the reasons therefor. Fed.R.Civ.P. 56(f). The moving party has the burden to set forth sufficient facts to show that the evidence sought exists. *Conkle v. Jeong*, 73 F.3d 909, 914 (9th Cir. 1995). The moving party must demonstrate that "additional discovery would uncover specific facts which would preclude summary judgment." *See Maljack Prods., Inc. v. Good Times Home Video Corp.*, 81 F.3d 881, 888 (9th Cir. 1996). Denial of a Rule 56(f) application is proper where it is clear

1 that the evidence sought is almost certain nonexistent or is the object of pure speculation. *Terrell v.*
2 *Brewer*, 935 F.2d 1015, 1018 (9th Cir. 1991). Plaintiff merely states that Defendants' motion should
3 be stayed until "all discovery may be completed." He has identified no additional facts or particular
4 discovery he believes is necessary to adequately prepare his opposition to the pending summary
5 judgment motion.

6 Plaintiff has made no showing under Rule 56(f) and therefore, Plaintiff's motion to stay (Dkt.
7 # 52) shall be **DENIED**.

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9 DATED this 6th day of April, 2007.

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13 Karen L. Strombom
14 United States Magistrate Judge
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